UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,051	04/27/2001	Sev K. H. Keil	B01.002	1476

33893	7590	08/01/2006

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EXAMINER
LASTRA, DANIEL

ART UNIT	PAPER NUMBER
3622	

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary		Application No.	Applicant(s)
		09/845,051	KEIL ET AL.
		Examiner	Art Unit
		DANIEL LASTRA	3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-33 and 39-71* is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-33 and 39-71* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

       1.☐ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *05/15/2006*.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1. Claims 1-33 and 39-71 have been examined. Application 09/845,051 (SYSTEM TO PROVIDE CONSUMER PREFERENCE INFORMATION) has a filing date 04/27/2001.

Response to Amendment

2. In response to Advisory Action filed 01/23/2006, the Applicant filed an RCE on 05/15/2006, which amended claims 1, 11, 12, 22, 23, 25, 31, 39, 49, 50, 60-63, 69.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-33, 39-71 are rejected under 35 U.S.C. 102(b) as being anticipated by Herz (U.S. 6,029,195).

As per claims 1 and 39 Herz teaches:

A computer implemented method for determining preference information, comprising:

storing preference information for a plurality of consumers, the preference information relating to an attribute of a product (see col 6, lines 15-67 "target objects may be purchasable items...attributes can be product description"; col 16, lines 60-67 "target objects are consumer goods and the weight of the color attribute is small");

providing trade-off questions relating to the attribute to a consumer (see column 12, lines 25-38; column 18, lines 10-67; col 28, lines 45-60 "user profiles include an associative attribute that records the user's relevance feedback on all target objects in the system...rapid profiling procedure can rapidly from a rough characterization of a new user's interests by soliciting the user's feedback on small number of significant target objects, and perhaps also by determining a small number of other key attributes of the new user, by on-line queries, telephone surveys or other means");

receiving answers to the trade-off questions from the consumer (see column 18, lines 10-30; col 28, lines 40-67);

determining, *based on the answers,* preference information associated with the consumer (see column 6, lines 16-59; col 28, lines 40-67);

validating the preference information of the consumer (see col 7, lines 1-17; column 30, line 46 – column 31, line 10). Applicant's specification defines "validating" as "predicting precision of the preference information"[1]. Herz estimates each user's interest in various target objects and generates for each user a customized rank-ordered listing of target objects most likely to be of interest to the user[2]; *and*

mixing, using a computing device, *based upon the validating,* the preference information *of the consumer* with the preference information of the plurality of consumers (see column 7, line 19 – column 8, line 47; column 12, lines 25-35),

wherein a degree to which the preference information associated with the consumer is mixed with the preference information associated with the plurality of

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[1] Applicant's specification page 9, lines 4-12

consumers is different than a second degree to which second preference information

associated with a second consumer is mixed with preference information of a second

plurality of consumers (see column 16, line 52 – column 17, line 57; col 19, lines 7-67;

column 21, line 5 – column 22, line 29; col 24, line 60 – col 25, line 60; column 29, lines

1-35).

As per claims 22 and 60, Herz teaches:

A computer implemented method for determining preference information,

comprising:

storing preference information regarding a plurality of consumers, the preference

information relating to an attribute of a product (see col 6, lines 15-67 "target objects

may be purchasable items...attributes can be product description"; col 16, lines 60-67

"target objects are consumer goods and the weight of the color attribute is small");

providing trade-off questions relating to the attribute to a consumer (see column

12, lines 25-38; column 18, lines 10-67; col 28, lines 45-60 "user profiles include an

associative attribute that records the user's relevance feedback on all target objects in

the system...rapid profiling procedure can rapidly from a rough characterization of a

new user's interests by soliciting the user's feedback on small number of significant

target objects, and perhaps also by determining a small number of other key attributes

of the new user, by on-line queries, telephone surveys or other means");

receiving answers to the trade-off questions from the consumer (see column 18,

lines 10-30; col 28, lines 40-67);

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[2] Herz col 7, lines 1-20

determining, *using the answers,* preference information associated with the consumer (see column 6, lines 16-59; col 28, lines 40-67);

validating the preference information (see col 7, lines 1-17; column 30, line 46 – column 31, line 10). Applicant's specification defines "validating" as "predicting precision of the preference information"[3]. Herz estimates each user's interest in various target objects and generates for each user a customized rank-ordered listing of target objects most likely to be of interest to the user[4]; and

mixing using a computing device the preference information with preference information associated with the plurality of consumers based on the validating step (see column 16, line 52 – column 17, line 57; col 19, lines 7-67; column 21, line 5 – column 22, line 29; col 24, line 60 – col 25, line 60; column 29, lines 1-35).

As per claims 31 and 69 Herz teaches:

A computer-implemented method to produce consumer preference information, comprising:

storing preference information for a plurality of consumers, the preference information relating to an attribute of a product (see col 6, lines 15-67 "target objects may be purchasable items...attributes can be product description"; col 16, lines 60-67 "target objects are consumer goods and the weight of the color attribute is small");

providing trade-off questions relating to the attribute to a consumer (see column 12, lines 25-38; column 18, lines 10-67; col 28, lines 45-60 "user profiles include an associative attribute that records the user's relevance feedback on all target objects in

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[3] Applicant's specification page 9, lines 4-12

the system...rapid profiling procedure can rapidly from a rough characterization of a new user's interests by soliciting the user's feedback on small number of significant target objects, and perhaps also by determining a small number of other key attributes of the new user, by on-line queries, telephone surveys or other means");

receiving answers to the trade-off questions from the consumer (see column 18, lines 10-30; col 28, lines 40-67);

determining, *based on the answers,* consumer preference information associated with the consumer (see column 6, lines 16-59; col 28, lines 40-67);

currency-normalizing, using a computing device, the consumer preference information (see col 15, lines 35-55; col 16, lines 55-60; col 19, lines 29-60 "likelihood interest").. *and*

mixing, using a computing device, the currency-normalized consumer preference information with the preference information of the plurality of consumers (see col 19, lines 7-67).

As per claims 2 and 40, <u>Herz</u> teaches:

A method according to Claim 1, wherein the preference information associated with the consumer and the preference information associated with the plurality of other consumers comprise normalized part worth values (see column 19, lines 50-60 "weight of each attribute indicative of users' preference for those target object that have high values for this attributes").

As per claims 3, 41 <u>Herz</u> teaches:

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[4] Herz col 7, lines 1-20

A method according to Claim 2, wherein the preference information associated with the consumer and the preference information associated with the plurality of other consumers comprise currency-normalized part worth values (see col 19, lines 7-67 "normative property"; column 65, line 50 – column 66, line 61).

As per claims 4, 27, 42 and 65, Herz teaches:

A method according to Claim 1, further comprising:

selecting the plurality of consumers from a group of past consumers based on attribute levels identified as unacceptable by each consumer of the group of past consumers (see column 21, lines 35-67).

As per claims 5, 28, 43 and 66 Herz teaches:

A method according to Claim 4, wherein the selected plurality of consumers are members of the group of past consumers who identified similar attribute levels as unacceptable (see column 21, lines 35-67).

As per claims 6, 29, 44 and 67, Herz teaches:

A method according to Claim 1, further comprising:

selecting the plurality of consumers from a group of past consumers based on part worth values associated with each consumer of the group of past consumers (see column 19, lines 30-67; col 21, lines 5-35).

As per claims 7, 30, 45 and 68, Herz teaches:

A method according to Claim 6, wherein the selected plurality of consumers are members of the group of past consumers who are associated with similar preference information (see column 6, lines 17-59).

As per claims 8, 46, <u>Herz</u> teaches:

A method according to Claim 1, wherein mixing the preference information comprises:

normalizing the preference information (see column col 19, lines 7-67; col 15, lines 35-67);

determining consumer subgroups (see column 89, lines 25-50);

assigning the consumer to one of the consumer subgroups (see column 89, lines 25-67); and

mixing preference information associated with the one of the consumer subgroups with the preference information associated with the consumer (see column 87, lines –5-40).

As per claims 9, 47, <u>Herz</u> teaches:

A method according to Claim 8, wherein determining consumer subgroups comprises:

assigning past consumers to subgroups based on attribute levels that the past consumers indicated as unacceptable (see column 21, lines 35-67).

As per claims 10, 48, <u>Herz</u> teaches:

A method according to Claim 8, wherein determining consumer subgroups comprises:

assigning past consumers to subgroups based on part worth values associated with the past consumers (see column 5, line 30 – column 6, line 30; col 19, lines 50-60).

As per claims 11, 23, 24, 49, 61 and 62 <u>Herz</u> teaches:

A method according to Claim 1, wherein *validating* the preference information comprises:

predicting consumer answers to the trade-off questions based on the preference information associated with the consumer (see column 7, lines 5-17; col 19, lines 9-27; col 28, lines 45-60); and

predicting subgroup answers to the trade-off questions based on the preference information associated with the plurality of consumers (see column 19, lines 8-67),

wherein the preference information is mixed with the preference information associated with the plurality of consumers based on the actual answers, the predicted consumer answers and the predicted subgroup answers (see column 23, line 60 – column 24, line 40; col 28, lines 40-67).

As per claims 12, 25, 26, 50, 63 and 64 Herz teaches:

A method according to Claim 11, further comprising:

determining a mixing parameter based on the answers, the predicted consumer answers and the predicted subgroup answers, wherein the preference information is mixed with the preference information associated with the plurality of consumers based on the mixing parameter (see column 23, line 60 – column 24, line 40; col 28, lines 40-67).

As per claims 13, 51, Herz teaches:

A method according to Claim 1, further comprising:

determining an offer to sell a product based on the mixed preference information (see column 23, line 60 – column 24, line 40).

As per claims 14, 33, 52 and 71, <u>Herz</u> teaches:

A method according to Claim 13, further comprising:

providing the offer to the consumer (see column 9, line 55-67).

As per claims 15, 53, <u>Herz</u> teaches:

A method according to Claim 1, wherein the first plurality of consumers is identical to the second plurality of consumers (see column 23, line 60 – column 24, line 40).

As per claims 16, 54, <u>Herz</u> teaches:

A method according to Claim 1, wherein the first plurality of consumers does not include any consumers belonging to the second plurality of consumers (see column 7, line 50 – column 8, line 47).

As per claims 17, 55, <u>Herz</u> teaches:

A method according to Claim 1, wherein one or more of the first plurality of consumers are members of the second plurality of consumers (see column 7, line 50 – column 8, line 47).

As per claims 18, 56, <u>Herz</u> teaches:

A method according to Claim 1, wherein the plurality of consumers comprises all past consumers for whom preference information is stored (see column 17, lines 1-10).

As per claims 19, 57, <u>Herz</u> teaches:

A method according to Claim 1, wherein the plurality of consumers comprises a predetermined number of past consumers for whom preference information is stored (see column 17, lines 1-56).

As per claims 20, 58, <u>Herz</u> teaches:

A method according to Claim 19, wherein the predetermined number of past consumers are determined based on a time at which preference information associated with each of the predetermined number of consumers was collected (see column 18, lines 10-67).

As per claims 21, 59, <u>Herz</u> teaches:

A method according to Claim 1, wherein the plurality of consumers comprises all past consumers for whom preference information was collected during a particular time period (see column 18, lines 9-67).

As per claims 32 and 70, <u>Herz</u> teaches:

A method according to claim 31, further comprising: providing an offer based on the currency-normalized information (see column 29, lines 1-35).

Response to Arguments

4. Applicant's arguments filed 05/15/2006 have been fully considered but they are not persuasive. The Applicant argues the in contrast to <u>Herz</u>, the Applicant's claimed invention collects and processes consumer preference information as relates to attributes of products (defined in the specification as goods and/or services). The Applicant further argues that <u>Herz</u> is directed to a matching system, and not a product attribute preference processing system. The Examiner answers that contrary to Applicant's argument, <u>Herz</u> collects and processes consumer preference information as relates to attributes of products because <u>Herz</u> determines consumer's preference information to attributes of purchasable items or items to buy, where said attributes comprises the

price of said products and the product descriptions[5], such as the color of said product

(*i.e.* brown or blue massage cushion) and the weight that a consumer gives to said

attributes (*i.e.* relative importance of the various attributes[6]) in determining consumer's

interest to said products.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the

examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-

6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax

number is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

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Daniel Lastra
July 22, 2006

RETTA YEHDEGA
PRIMARY EXAMINER

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[5] Herz col 6, lines 15-67
[6] Herz col 16, lines 61-63